

House Study Bill 682 - Introduced

HOUSE FILE _____

BY (PROPOSED COMMITTEE ON
WAYS AND MEANS BILL BY
CHAIRPERSON SANDS)

A BILL FOR

- 1 An Act relating to state and local government powers and
- 2 limitations, including authorizing loans from city reserve
- 3 funds.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 384.4, subsection 1, Code 2014, is
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. *f.* Payments of principal and interest on
4 loans entered into pursuant to section 384.24B and authorized
5 for repayment by the council from the debt service fund.

6 Sec. 2. NEW SECTION. **384.24B General obligation loans**
7 **funded by the city.**

8 1. A city may authorize a loan, as defined in this section,
9 to borrow money for any general corporate purpose or essential
10 corporate purpose in accordance with and subject to the
11 provisions of this section.

12 2. *a.* For purposes of this section, "*loan*" means the
13 sum of the transfers from the surplus of one or more reserve
14 accounts or funds of the city which transfers are authorized
15 for the purpose specified in the loan authorization document.
16 A transfer from a reserve account or fund for the purposes of
17 this section shall not cause the balance of reserves in such
18 account or fund at the close of the fiscal year following the
19 fiscal year in which the transfer is made to fall below any
20 minimum balance prescribed by law for such account or fund.
21 For the purposes of this section, "*reserve account or fund*"
22 means moneys held by a city that are not operating funds, as
23 defined in section 12B.10A, and which is authorized by law to
24 receive interest pursuant to section 12C.7.

25 *b.* A loan to finance a general obligation bond project
26 under this section shall not result in a user fee, rate, or
27 property tax increase to support the annual operations of the
28 account or fund from which the loan is made, as a result of
29 the unavailability of the surplus funds. For the purposes of
30 this section, "*surplus*" means the cash balance available in
31 any account or fund from which a loan will be made under this
32 section which exceeds the amount of expenses or disbursements
33 made from the account or fund in the previous three months,
34 plus the amount of transfers, payments, or disbursements
35 required in the following three months.

1 3. *a.* A loan entered into by a city pursuant to this
2 section may contain provisions similar to those found in loan
3 agreements between private parties, including but not limited
4 to the issuance of notes to evidence its obligations. The
5 terms of each loan shall require repayment of the loan within
6 ninety days to the extent necessary to prevent a user fee,
7 rate, or property tax increase which raises the user fees,
8 rates, or property taxes payable into the account or fund from
9 which the loan is made above the level in effect at the time a
10 loan under this section is authorized.

11 *b.* A loan authorized pursuant to this section shall
12 constitute an indebtedness within the meaning of any
13 constitutional debt limitation and shall be reported by the
14 city to the state treasurer in the same manner as required
15 for bonding activities pursuant to section 12.1. The full
16 or partial refunding of any loan under this section shall
17 be authorized as an essential corporate purpose pursuant to
18 section 384.24, subsection 3, paragraph "f".

19 4. A loan made pursuant to this section is payable from the
20 debt service fund of the city. The governing body shall follow
21 the same authorization procedures required for the issuance
22 of general obligation bonds issued for the same purpose to
23 authorize a loan made payable from the debt service fund.
24 Upon approval of a loan, the loan shall be accounted for in
25 accordance with section 384.20.

26 5. A loan made pursuant to this section shall include
27 provisions establishing an interest rate on the loan that shall
28 be set at a rate that is between the interest rate established
29 pursuant to section 12C.6, subsection 2, paragraph "a", and the
30 interest rate established pursuant to section 74A.6, subsection
31 2.

32 6. Repayments of principal and interest shall be paid to
33 the reserve fund or account from which all or a portion of the
34 funds were advanced for the loan in the proportion that the
35 amount of the advance from the fund or account bears to the

1 entire amount of the loan.

2 7. a. The limitation in section 346.24 does not apply to a
3 transfer made pursuant to this section or to a loan authorized
4 pursuant to this section.

5 b. A city shall not become indebted under this section to an
6 amount exceeding six million dollars.

7 8. A loan made pursuant to this section shall not include
8 any transfers or obligations from the reserve fund or account
9 of a city utility or of a combined city utility.

10 9. The powers granted under this section shall not be
11 construed as a limitation of the existing powers of a city.

12 Sec. 3. Section 384.25, Code 2014, is amended to read as
13 follows:

14 **384.25 General obligation bonds or loans for essential**
15 **purposes.**

16 1. A city which proposes to carry out any essential
17 corporate purpose within or without its corporate limits, and
18 to contract indebtedness and issue general obligation bonds or
19 authorize a loan described in section 384.24B, to provide funds
20 to pay all or any part of the cost of a project must do so in
21 accordance with the provisions of this division.

22 2. Before the council may institute proceedings for the
23 issuance of bonds or authorization of a loan for an essential
24 corporate purpose, a notice of the proposed action, including
25 a statement of the amount and purposes of the bonds or loan,
26 and the time and place of the meeting at which the council
27 proposes to take action for the issuance of the bonds or
28 authorization of the loan, must be published as provided in
29 section 362.3. At the meeting, the council shall receive oral
30 or written objections from any resident or property owner
31 of the city. After all objections have been received and
32 considered, the council may, at that meeting or any adjournment
33 thereof, take additional action for the issuance of the bonds
34 or authorization of the loan or abandon the proposal to issue
35 the bonds or authorize the loan. Any resident or property

1 owner of the city may appeal the decision of the council to
2 take additional action to the district court of the county in
3 which any part of the city is located, within fifteen days
4 after the additional action is taken, but the additional action
5 of the council is final and conclusive unless the court finds
6 that the council exceeded its authority. The provisions of
7 this subsection with respect to notice, hearing, and appeal,
8 are in lieu of the provisions contained in chapter 73A, or any
9 other law.

10 3. a. Notwithstanding subsection 2, a council may institute
11 proceedings for the issuance of bonds or the authorization of a
12 loan for an essential corporate purpose specified in section
13 384.24, subsection 3, paragraph "w" or "x", in an amount equal
14 to or greater than three million dollars by causing a notice
15 of the proposal to issue the bonds or authorize the loan,
16 including a statement of the amount and purpose of the bonds
17 or loan, together with the maximum rate of interest which the
18 bonds are to bear or which will be charged to the principal
19 balance of the loan, and the right to petition for an election,
20 to be published at least once in a newspaper of general
21 circulation within the city at least ten days prior to the
22 meeting at which it is proposed to take action for the issuance
23 of the bonds or the authorization of the loan.

24 b. If at any time before the date fixed for taking action
25 for the issuance of the bonds or the authorization of the
26 loan, a petition is filed with the clerk of the city signed
27 by eligible electors of the city equal in number to twenty
28 percent of the persons in the city who voted for the office of
29 president of the United States at the last preceding general
30 election that had such office on the ballot, asking that the
31 question of issuing the bonds or authorizing the loan be
32 submitted to the registered voters of the city, the council
33 shall either by resolution declare the proposal to issue the
34 bonds or authorize the loan to have been abandoned or shall
35 direct the county commissioner of elections to call a special

1 election upon the question of issuing the bonds or authorizing
2 the loan. Notice of the election and its conduct shall be in
3 the manner provided in section 384.26.

4 c. If a petition is not filed, or if a petition is filed and
5 the proposition of issuing the bonds or authorizing the loan
6 is approved at an election, the council may proceed with the
7 authorization and issuance of the bonds or authorization of the
8 loan.

9 Sec. 4. Section 384.26, subsections 1, 2, 4, and 5, Code
10 2014, are amended to read as follows:

11 1. A city which proposes to carry out any general corporate
12 purpose within or without its corporate limits, and to contract
13 indebtedness and issue general obligation bonds or authorize a
14 loan described in section 384.24B, to provide funds to pay all
15 or any part of the costs of a project, must do so in accordance
16 with the provisions of this division.

17 2. Before the council may institute proceedings for the
18 issuance of bonds or authorization of a loan for a general
19 corporate purpose, it shall call a special city election to
20 vote upon the question of issuing the bonds or authorizing the
21 loan. At the election the proposition must be submitted in one
22 of the following form forms, as applicable:

23 Shall the (insert the name of the city) issue
24 its bonds in an amount not exceeding the amount of \$.... for
25 the purpose of?

26 Shall the (insert the name of the city) authorize
27 a loan from its surplus funds in an amount not exceeding the
28 amount of \$.... for the purpose of?

29 4. The proposition of issuing general corporate purpose
30 bonds or authorizing a loan for a general corporate purpose
31 is not carried or adopted unless the vote in favor of the
32 proposition is equal to at least sixty percent of the total
33 vote cast for and against the proposition at the election.
34 If the proposition of issuing the general corporate purpose
35 bonds or authorizing a loan for a general corporate purpose is

1 approved by the voters, the city may proceed with the issuance
2 of the bonds or authorization of the loan.

3 5. a. Notwithstanding the provisions of subsection 2,
4 a council may, in lieu of calling an election, institute
5 proceedings for the issuance of bonds or authorization of a
6 loan for a general corporate purpose by causing a notice of the
7 proposal to issue the bonds or authorize the loan, including
8 a statement of the amount and purpose of the bonds or loan,
9 together with the maximum rate of interest which the bonds are
10 to bear or which the loan is to bear, and the right to petition
11 for an election, to be published at least once in a newspaper
12 of general circulation within the city at least ten days prior
13 to the meeting at which it is proposed to take action for the
14 issuance of the bonds or authorization of the loan subject to
15 the following limitations:

16 (1) In cities having a population of five thousand or less,
17 in an amount of not more than four hundred thousand dollars.

18 (2) In cities having a population of more than five thousand
19 and not more than seventy-five thousand, in an amount of not
20 more than seven hundred thousand dollars.

21 (3) In cities having a population in excess of seventy-five
22 thousand, in an amount of not more than one million dollars.

23 b. If at any time before the date fixed for taking action
24 for the issuance of the bonds or the authorization of the
25 loan, a petition is filed with the clerk of the city in the
26 manner provided by section 362.4, asking that the question
27 of issuing the bonds or authorizing the loan be submitted to
28 the registered voters of the city, the council shall either by
29 resolution declare the proposal to issue the bonds or authorize
30 the loan to have been abandoned or shall direct the county
31 commissioner of elections to call a special election upon the
32 question of issuing the bonds or authorizing the loan. Notice
33 of the election and its conduct shall be in the manner provided
34 in the preceding subsections of this section.

35 c. If no petition is filed, or if a petition is filed and

1 the proposition of issuing the bonds or authorizing the loan
2 is approved at an election, the council may proceed with the
3 authorization and issuance of the bonds or the authorization
4 of the loan.

5 Sec. 5. Section 384.33, Code 2014, is amended to read as
6 follows:

7 **384.33 Action.**

8 No action may be brought which questions the legality of
9 general obligation bonds, notes, or loans under this chapter or
10 the power of the city to issue the bonds, notes or loans or the
11 effectiveness of any proceedings relating to the authorization
12 and issuance of the bonds, notes, or loans from and after sixty
13 days from the time the bonds, notes or loans are ordered issued
14 by the city.

15 EXPLANATION

16 The inclusion of this explanation does not constitute agreement with
17 the explanation's substance by the members of the general assembly.

18 This bill relates to state and local government powers and
19 limitations.

20 The bill enacts new Code section 384.24B to allow a city to
21 borrow surplus money from its reserve accounts or funds for
22 any general corporate purpose or essential corporate purpose.
23 The bill requires that a city certify taxes to be levied for
24 deposit in the debt service fund in the amount necessary to pay
25 principal and interest on loans authorized under the bill. The
26 bill defines "loan", "surplus", and "reserve account or fund".

27 The bill requires that such loans not cause the balances
28 of such reserve accounts or funds to fall below any minimum
29 balance prescribed by law and requires that a city shall not
30 become indebted under such loans to an amount in excess of \$6
31 million. The bill requires that loans from reserve funds be
32 reported to the state treasurer in the same manner as required
33 for bonds issued by a city. The bill requires that such loans
34 not result in a user fee, rate, or property tax increase as
35 a result of unavailability of surplus funds. The terms of

1 each loan shall require repayment of the loan within 90 days
2 to the extent necessary to prevent a user fee rate or property
3 tax increase. Such a loan shall be payable from the city debt
4 service fund and shall constitute an indebtedness within the
5 meaning of any statutory debt limitation.

6 The full or partial repayment of a loan entered into under
7 the bill shall constitute an essential corporate purpose
8 pursuant to Code section 384.24, subsection 3, paragraph "f".
9 The bill provides that upon approval of such a loan that the
10 loan shall be accounted for as a separate account pursuant
11 to current Code section 384.20. The bill further provides
12 that interest rates on such a loan be set between the interest
13 rate established for the deposit of public funds, established
14 in current Code section 12C.6 and the maximum interest rate
15 established for public obligations and assessments under
16 current Code section 74A.6, subsection 2. The bill provides
17 that such a loan not include any transfers or obligations from
18 a reserve fund or account of a city utility or combined city
19 utility.

20 The bill requires that a city council follow substantially
21 the same procedures for the issuance of general obligation
22 bonds for essential corporate purposes, pursuant to Code
23 section 384.25, or for general corporate purposes, pursuant to
24 Code section 384.26 when making a loan from reserve funds.

25 The bill further provides that no action may be brought
26 against a city regarding the legality, power to issue, or power
27 to authorize notes or loans under Code chapter 384 at any time
28 after 60 days following issuance.